

DECLARATION OF JOSEPH N. HOSTENY

**In Support of Timebase's Response
to Thomson's Motion to Stay**

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

TIMEBASE PTY LTD.,)
vs. Plaintiff,) Civil Action No. 07-CV-04551(JNE/JJG)
THE THOMSON CORPORATION,)
WEST PUBLISHING CORPORATION,)
AND WEST SERVICES, INC.,) Honorable Joan N. Erickson
Defendants.) Magistrate Judge Jeanne J. Graham

DECLARATION OF JOSEPH N. HOSTENY

I, Joseph N. Hosteny, declare:

1. I am one of the attorneys for TimeBase Pty Ltd. in this case.
2. Exhibit 1 is a true and accurate copy of reexamination data for U.S. Patent No. 4,924,078, one of the patents asserted in *VData LLC v. Aetna, Inc.*, No. 06-1701, 2006 WL 3392889, (D. Minn. Nov. 21, 2006), a case cited at page 7 of Thomson's memorandum in support of its motions to consolidate and stay.
3. Exhibit 2 is a true and accurate copy of reexamination data for U.S. Patent No. 5,612,524, one of the patents asserted in *VData LLC v. Aetna, Inc.*, No. 06-1701, 2006 WL 3392889, (D. Minn. Nov. 21, 2006).
4. Exhibit 3 is a true and accurate copy of reexamination data for U.S. Patent No. 5,253,341, a patent reexamination which was handled by our firm.
5. Exhibit 4 is a true and accurate copy of reexamination data for U.S. Patent No. 5,253,341, a second reexamination of the same patent as in Exhibit 3.

6. Exhibit 5 is a true and accurate copy of reexamination data for U.S. Patent No. 4,213,121, a patent reexamination which was handled by our firm.
7. Exhibit 6 is a true and accurate copy of reexamination data for U.S. Patent No. 4,697,932, a patent reexamination which was handled by our firm.
8. Exhibit 7 is a true and accurate copy of U.S. Patent No. 6,233,592.
9. Exhibit 8 is a true and accurate copy of U.S. Patent No. 7,293,228.
10. Exhibit 9 is a true and accurate copy of Ex Parte Reexamination Filing Data - September 30, 2007.
 11. Exhibit 10 is a true and accurate copy of Ex Parte Reexamination Data from the USPTO Annual Report.
 12. Exhibit 11 is a true and accurate copy of *Gladish v. Tyco Toys, Inc.*, 29 USPQ 2d 1718 (E.D. Cal. 1993).
 13. Exhibit 12 is a true and accurate copy of *American Ceramicraft, Inc. v. Eisenbraun Reiss, Inc.*, 28 USPQ 2d 1241(D. N.J. 1993).
 14. Exhibit 13 is a true and accurate copy of *Emprotech Corp. v. Autotech Corp.*, 15 USPQ 2d 1319 (N.D. Ill. 1990).
 15. Exhibit 14 is a true and accurate copy of a published TimeBase application, 2007/0074107.
 16. Exhibit 15 is a true and accurate copy of a list from the PTO's website of patents where Mr. Stephen Hong was the primary or assistant examiner.
 17. Exhibit 16 includes true and accurate copies of portions of the prosecution history for the '228 patent, Exhibit 8.

18. Exhibit 17 is true and accurate copies of the Joint Stipulation to Lift Stay, and the Defendants' Opening Markman Brief in the *Pacesetter* case.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief. Executed on January 17, 2008.

/s/Joseph N. Hosteny